

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FILED BY ef D.C.
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THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TN JACKSON

JOHN ROSS JOHNSON,

Plaintiff,

VS/

PICTSWEET FROZEN FOODS,

Defendant.

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No. 05-1274-T/An

ORDER DENYING LEAVE TO PROCEED *IN FORMA PAUPERIS*
AND
ORDER DIRECTING PLAINTIFF TO PAY THE \$250 CIVIL FILING FEE

Plaintiff John Ross Johnson filed a *pro se* complaint pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, on September 23, 2005, along with a motion seeking leave to proceed *in forma pauperis*.

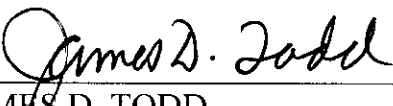
Federal law provides that the “clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of” \$250. 28 U.S.C. § 1914(a).¹ To ensure access to the courts, however, 28 U.S.C. § 1915(a) permits an indigent plaintiff to avoid payment of filing fees by filing an *in forma pauperis* affidavit. Under that section, the Court must conduct a satisfactory inquiry into the plaintiff’s ability to pay the filing fee and prosecute

¹ Effective March 7, 2005, the civil filing fee was increased to \$250.

the lawsuit. A plaintiff seeking *in forma pauperis* standing must respond fully to the questions on the Court's *in forma pauperis* form and execute the affidavit in compliance with the certification requirements contained in 28 U.S.C. § 1746. See, e.g., Reynolds v. Federal Bur. of Prisons, 30 Fed. Appx. 574 (6th Cir. Mar. 11, 2002); Brogue v. Fort Knox Fed. Credit Union, No. 86-1896, 1997 WL 242043 (6th Cir. May 8, 1997).

In this case, the plaintiff's *in forma pauperis* affidavit indicates that his monthly income exceeds his expenses by a substantial amount. As it does not appear that the plaintiff is indigent and unable to pay the filing fee or to give security therefor, the motion to proceed *in forma pauperis* is DENIED. The plaintiff is ORDERED to pay the \$250 civil filing fee within thirty (30) days after the date this order is entered. Failure to timely comply with this order will result in dismissal of this action, pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute.

IT IS SO ORDERED this 9th day of November, 2005.



JAMES D. TODD
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 4 in case 1:05-CV-01274 was distributed by fax, mail, or direct printing on November 16, 2005 to the parties listed.

John Ross Johnson
104 Quincy Street
Gadsden, TN 38337

Honorable James Todd
US DISTRICT COURT